

### **REMARKS**

Reconsideration of the application in light of the above amendments and the following remarks is respectfully requested.

#### **Status of the Claims**

Claims 1-35 are pending. Claims 1, 2, 6, 8, 12-13, 16-17, 20, 23-25, 27-32 and 34 have been amended. Amendment to claims 2, 6, 8, 16, 17, 13, 24-25, 27-32 and 34 were made to better set forth the invention without altering or narrowing the scope of the subject matter contained therein. Claim 35 has been added. No new matter is added.

#### **Rejection Under 35 U.S.C. § 101**

Claims 2, 8, 13, 17, 20, 23, and 28-30 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicant respectfully traverses these rejections.

The Office Action rejects dependent claims 2, 8, 13 and 17 for “disclosing the sole limitation” set forth therein. *See* Detailed Action, items 2-4, page 2. However, Claims 2 and 8 depend from claim 1. Claims 13 and 17 depend from independent claim 12. Therefore, each of claims 2, 8, 13 and 17 recite the features of their respective base claims as if set forth therein. Applicant respectfully submits that claims 2, 8, 13 and 17 do not recite a sole limitation, as noted by the Office Action. Further, Applicant submits that an examination of a claim on its merits requires examination of each feature of the claim. Based on the language of the Office Action, such is not the case for at least claims 2, 8, 13 and 17. Independent method claim 20 was rejected for reciting the step of “displaying a set of grids on a display device.” *See* Detailed Action, item 5, page 2. Claims 2 and 8 are method claims and contain all of the elements of claim 1 plus additional features recited therein. Claims 13 and 17 are method claims and contain all of the elements of claim 12 plus additional features recited therein.

Applicant respectfully submits that a method claim is statutory if it “produces a concrete, tangible and useful result; i.e., the method recites a step or act of producing something that is concrete, tangible and useful.” *See* MPEP 2106. Moreover, MPEP 2106 (“Practical Application That Produces a Useful, Concrete and Tangible Result”), instructs the Examiner to

focus on whether the final result achieved by the claimed invention produces the “useful, tangible and concrete” result, rather than the individual steps taken to achieve a particular result are “useful, tangible, and concrete.” The method of claims 2, 8, 13, 17 and 20 determine a type of an option spread based on a user selected series of options. This method “can be used by options, futures, and swaps traders on the exchange floor to make faster, more accurate trades with minimized risk.” See, Specification, Page 6, lines 1-15. As such, claims 2, 8, 13, 17 and 20 produce a concrete, tangible and useful result. Therefore, Applicant submits that claims 2, 8, 13, 17 and 20 recite statutory subject matter.

Claim 23 stands rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Specifically, the Examiner contends that claim 23 requires human intervention, directing claim 23 to non-statutory subject matter.

Independent method claim 23 is amended to clarify the nature of the invention. Amended claim 23 now recites “presenting a set of grids on a display device,” and “accepting a selection of a sequence of boxes.” Applicant submits that amended claim 23 recites statutory subject matter.

Claims 28-30 stand rejected under 35 U.S.C. § 101 as lacking utility. The Office Action contends that the step of “instructing a sign change” as recited in claims 28-30 lacks utility.

Dependent method claims 28-30 depend from amended independent method claim 23, and recite their own features in addition to the features of their base claim. The method of claims 28-30 determine a type of an option spread based on “instructing a sign change” for a user selected series of sequences. The Specification is replete with examples where “instructing a sign change” impacts the type of option spread that is determined. As discussed above, the utility of determining the type of option spread is amply presented in the Specification. Accordingly, claims 28-30 do not lack utility.

Reconsideration and withdrawal of the rejection of claims 2, 8, 13, 17, 20, 23, and 28-30 under 35 U.S.C. § 101 is respectfully requested.

**Rejection Under 35 U.S.C. § 102**

Claims 1-34 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Published Application 2002/0147670 A1 to Lange (“Lange”).

Lange, discloses a Demand Based Adjustable Returns (“DBAR”) system capable of executing “a digital option spread trade . . . which simultaneously executes a buy and a ‘sell’ . . . of a digital call or a put option.” See Lange, ¶ 0797. The DBAR system is capable of creating “a derivative market for digital options spreads” See Lange, ¶ 0783. A derivative market, as known to a person ordinarily skilled in art, is a financial market that trades derivatives, such as futures. The digital “call” and “put” spreads are “traded and processed” on the derivative market. See Lange, ¶ 0783. Lange also discloses calculating the risk/reward of a digital option spread. See Lange, ¶ 0806. Applicant submits that Lange merely discloses a system for trading/executing digital “call” and “put” spreads.

Amended claim 1 includes the step “determining a type of option spread based upon at least one of the first and second option counts, the comparison of the second option to the first option, and the assigned quantities of the first and second options, wherein the determined type of option spread defines a combination of assigned buy and sell indicators,” where the first option and the second option are received “free of buy and sell indicators.” Amended independent claims 12 and 20 recite similar subject matter. Support for this amendment can be found in the Specification, for example, at page 23, line 4, through page 24, line 22. Each of the definitions for the option spreads defined on pages 23-24 include an identification of the buy and sell indicators for the respective option spread. Prior to a determination of the type of option spread, there system has no information regarding the buy and sell indicators.

The claimed invention, determines a type of an option spread based on a sequence of option selections received from an input device. Specification, Page 6, lines 1-15. The type of an option spread is determined from incomplete information (*i.e.*, lacking buy and sell indicators) based on an optioncode, a contract, a strike and a callput, free of buy and sell indicators. By determining the type of option spread, the buy and sell indicators are identified. In contrast,

Lange merely discloses an execution platform for executing digital option spreads. *See* Lange, ¶¶ 0783, 797, 803. Lange neither discloses nor suggests determining the type of option spread.

For at least the reasons discussed above, Lange does not disclose each and every feature of independent claims 1, 12 and 20. Therefore, Lange does not anticipate claims 1, 12, and 20. Claims 6-11 depend on claim 1. Claims 16-19 depend on claim 12. Claims 21-22, 31-34 depend on claim 20. Applicant submits that claims 6-11, 16-19, 21-22 are distinguishable over Lange for at least the same reasons as their respective base claims. Reconsideration and withdrawal of the rejection is respectfully requested.

Claims 24, 26, 27, 31-34 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Lange. Claims 24, 26, 27, 31-34 depend from amended claim 23. Amended claim 23 is directed to a method of determining the type of option spread based on a sequence of user selections. As discussed above, Lange neither discloses, nor suggest, determining a type of option spread. Accordingly, amended claim 23 is not anticipated by Lange for at least the same reasons discussed above. Claims 24, 26, 27, 31-34 recite all the elements of claim 23 plus additional features recited therein. Therefore, claims 24, 26, 27, 31-34 are not anticipated by Lange. Reconsideration and withdrawal of the rejection is respectfully requested.

#### **New Claim 35**

New dependent claim 35 depends from independent claim 20. Applicant submits that claim 35 is patentable for at least the reasons discussed above for claim 20.

**CONCLUSION**

In view of the foregoing it is believed that claims 1-35 are in condition for allowance and it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

If there are any other issues remaining which the Examiner believes could be resolved through a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

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Respectfully submitted,

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